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19           **ATTORNEYS FOR USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC**

20           **UNITED STATES BANKRUPTCY COURT**  
 21           **DISTRICT OF NEVADA**

22           In re:  
 23           USA COMMERCIAL MORTGAGE COMPANY,  
 24           Debtor.

25           Case No. BK-S-06-10725 LBR  
 26           Case No. BK-S-06-10726 LBR  
 27           Case No. BK-S-06-10727 LBR  
 28           Case No. BK-S-06-10728 LBR  
 29           Case No. BK-S-06-10729 LBR

30           In re:  
 31           USA CAPITAL REALTY ADVISORS, LLC,  
 32           Debtor.

33           Chapter 11

34           In re:  
 35           USA CAPITAL DIVERSIFIED TRUST DEED  
 36           FUND, LLC,  
 37           Debtor.

38           Jointly Administered Under  
 39           Case No. BK-S-06-10725-LBR

40           In re:  
 41           USA CAPITAL FIRST TRUST DEED FUND, LLC,  
 42           Debtor.

43           In re:  
 44           USA SECURITIES, LLC,  
 45           Debtor.

46           Affects:

- All Debtors
- USA Commercial Mortgage Company
- USA Securities, LLC
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA First Trust Deed Fund, LLC

47           **EX PARTE APPLICATION FOR  
 48           ORDER REQUIRING ROBERT A.  
 49           RUSSELL TO APPEAR FOR  
 50           EXAMINATION PURSUANT TO  
 51           FEDERAL RULE OF  
 52           BANKRUPTCY PROCEDURE 2004**

53           Pursuant to Federal Rule of Bankruptcy Procedure 2004, USA Capital Diversified Trust  
 54           Deed Fund, LLC (“DTDF”) hereby applies to this Court for an order requiring Robert A. Russell  
 55           (“Russell”) to appear, as set forth in the subpoena to be issued under Federal Rule of Bankruptcy  
 56           Procedure 9016, for examination at the offices of FTI Consulting, Inc., One Renaissance Square,  
 57           Two North Central Avenue, Suite 1200, Phoenix, AZ 85004-2322, on a business day no earlier

1 than ten (10) business days after the filing of this Application and no later than April 4, 2008 (or  
 2 at such other mutually agreeable location, date and time) and continuing from day to day  
 3 thereafter until completed.

4 This Application is further explained in the following Memorandum.

5 **Memorandum**

6 DTDF seeks information concerning transactions and other dealings between Russell and  
 7 DTDF, the other debtors in the above-captioned cases (together with DTDF, the "Debtors"), and  
 8 the Debtors' affiliates, subsidiaries, parents, or otherwise related entities. DTDF seeks this  
 9 information to assist in the collection of the assets and the investigation of the liabilities of the  
 10 Debtors.

11 The requested discovery from Russell is well within the scope of examination permitted  
 12 under Bankruptcy Rule 2004(b), which includes:

13 [t]he acts, conduct, or property or ... the liabilities and financial condition of the  
 14 debtor, or ... any matter which may affect the administration of the debtor's  
 15 estate, or to the debtor's right to a discharge. In a ... reorganization case under  
 16 chapter 11 of the Code, ... the examination may also relate to the operation of any  
 17 business and the desirability of its continuance, the source of any money or  
 18 property acquired or to be acquired by the debtor for purposes of consummating a  
 19 plan and the consideration given or offered therefore, and any other matter  
 20 relevant to the case or to the formulation of a plan.

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## Conclusion

Accordingly, DTDF requests this Court to enter the form of order submitted with this Application.

Dated this 7<sup>th</sup> day of March, 2008.

SNELL & WILMER LLP

By:

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